

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LANE MYERS

Plaintiff,

v.

CHRISTOPHER WREN, NICHOLAS
SMITH and UNKNOWN FRERIKS,

Defendants.

Case No: 1:22-cv-00748

Hon. Paul L. Maloney

**DEFENDANTS' OBJECTION
TO PLAINTIFF'S MOTION
FOR LEAVE TO FILE REPLY**

Oral Argument Requested

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**DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR LEAVE TO FILE
REPLY TO DEFENDANTS MOTION IN OPPOSITION**

INTRODUCTION

On November 3, 2022, Plaintiff filed a procedurally deficient Motion for Leave to amend his complaint in this matter. (ECF No. 37). On November 17, 2022 Defendants timely responded to Plaintiff's Motion for Leave arguing, among other things, that Plaintiff's Motion to amend his complaint was procedurally deficient, is being filed for an improper purpose to harass and intimidate the County and its officials and attorneys, and that the standards for granting leave to

amend weigh heavily against Plaintiff. (ECF No. 44). Without leave of the Court, Plaintiff filed an reply to Defendants' response on violation of Local Rule 7.3(c), which he later withdrew. (ECF Nos. 45 and 51). Plaintiff filed a procedurally deficient Motion for Leave to file a reply brief (ECF No. 50) which the Court held in abeyance pending compliance with Local Rule 7.1(d) and giving Defendants 14 days to file a response to the Motion for Leave following Plaintiff filing a Certificate of Concurrence. (ECF No. 52). Plaintiff filed a Certificate of Concurrence on November 29, 2022. (ECF No. 53).

Plaintiff's Motion for Leave to file a reply brief should be denied because a reply brief would not assist in adjudication of the Motion. *See e.g. Costello v Patterson Dental Supply Inc.*, 2007 WL 4178942 *3 (WD Mich 2007)(denying leave to file a reply under Local Rule 7.3(c) when a reply brief would not assist in adjudication of the parties' cross-motions)(**Exhibit A**).

ARGUMENT

I. Plaintiff's Motion Is Incorrectly Titled.

As a preliminary matter, Plaintiff's Motion is titled "Motion for Leave to file Reply to Defendants[sic] Motion in Opposition." To clarify for the record which has become confusing based on Plaintiff's flurry of filings in the last several weeks, Defendants never filed a "Motion in Opposition." Defendants filed a response to Plaintiff's Motion for Leave to File a Reply Brief, which is not a "motion."

II. Plaintiff's Reply Brief would not assist in the adjudication of the Motion for Leave to File the Amended Complaint.

Plaintiff's proposed reply brief (ECF No. 50-1) largely attempts to complain about Defendants' briefing of Plaintiff's continued abusive and obstructive behavior in pursuing this litigation. He attached two un-notarized and electronically signed "affidavits" which, on their

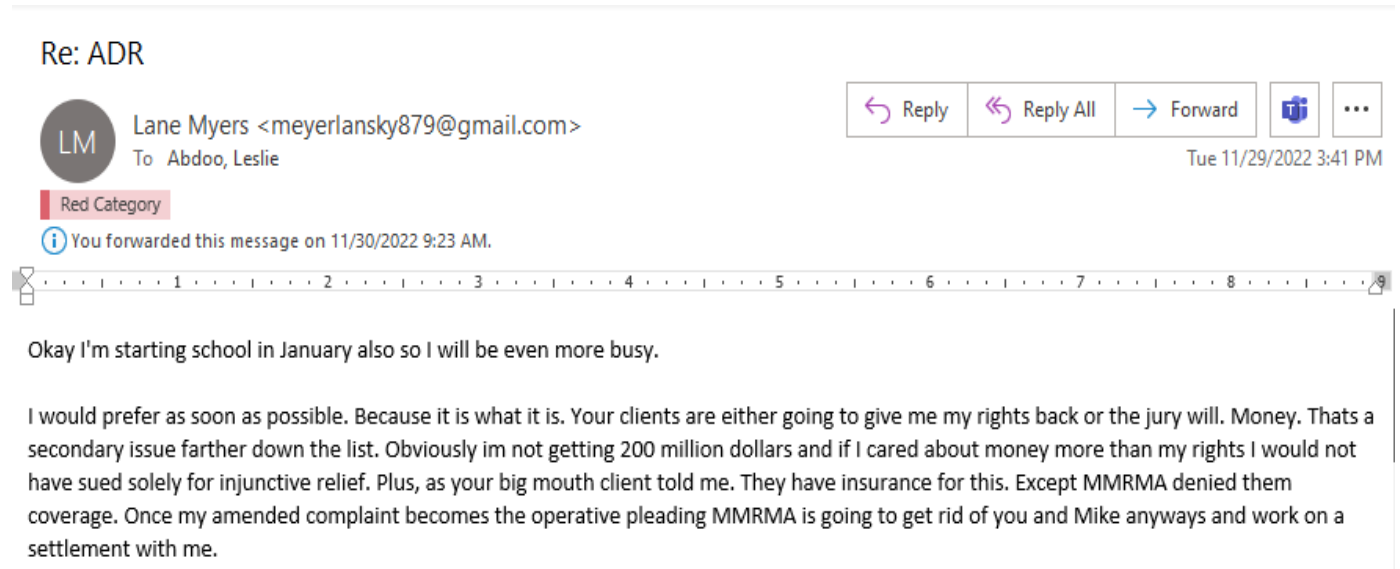
face, are unpersuasive, supporting his allegation that he has drafted all pleadings in this matter on his behalf without assistance of his girlfriend (which he now sometimes refers to as his “wife” (**Exhibit B**)). In any event, this Court does not need this filing to decide the pending motion. *See e.g. Lefebvre v Remington Arms Company, LLC*, 2019 WL 5103423 fn. 1 (WD Mich 2019)(denying supplement to a response merely to complaint about Defendant’s alleged noncompliance with court rules because “the Court does not need a filing that simply points a finger at the opposing party”)(**Exhibit C**).

III. Plaintiff’s amended complaint, like his original complaint, is not based in law or fact and is clearly intended to harass and intimidate the County and its officials and employees.

As discussed in Defendants’ Motion, Brief and Supplemental Brief for Sanctions under Rule 11 and in Defendants’ Response to Plaintiff’s Motion for Leave to File Amended Complaint, it is abundantly clear from Plaintiff’s abusive behavior, which has continued to occur throughout this case (See ECF Nos. 26, 27, 28, 40 and 44)(See also, **Exhibit B**, Correspondence since November 28, 2022), that Plaintiff’s only goal of filing this lawsuit is to harass and berate County employees and its attorneys and to force the County to waste taxpayer dollars in defense of this frivolous lawsuit.

For example, in an email on November 29, 2022, he admits to Defendants’ counsel that at least three of the proposed Defendants in his amended complaint were not even employees or officials of the County during the time of the alleged incident and that he intends to withdraw them after his “amended complaint becomes the operative pleading.” (**Exhibit B**). This is further evidence that Plaintiff did no due diligence before drafting his amended complaint filled with baseless and frivolous accusations.

Similarly, in another email on November 29, 2022 to Defendants' counsel, Plaintiff essentially acknowledges that his \$205 million damage claim is ridiculous and that he is going after the County's insurance carrier:



Other than lawfully enforcing its Park Ordinance, Defendants, the County, its employees, officials and attorneys have done nothing to warrant Plaintiff's bizarre and irrational behavior, which will undoubtedly continue if Plaintiff is permitted to file a reply brief and his amended complaint to continue pursuing his frivolous claims. His motion for leave should be denied.

CONCLUSION

WHEREFORE, Defendants requests that this Court enter an Order denying Plaintiff's Motion for Leave to File a Reply Brief and otherwise sanction Plaintiff for his conduct including dismissal of Plaintiff's frivolous claims with prejudice.

FOSTER SWIFT COLLINS & SMITH, P.C.
Attorneys for Defendants

Dated: December 7, 2022

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